

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

BENJI D. REED,

Plaintiff,

9:22-cv-1094 (BKS/ML)

v.

J. AUCTER, RANDY REED and
JEREMY MYERS,

Defendants.

Appearances:

Plaintiff Pro Se:

Benji D. Reed, 24-B-1905
Elmira Correctional Facility
P.O. Box 500
Elmira, NY 14902

For Defendants:

Thomas K. Murphy
Murphy Burns LLP
407 Albany Shaker Road
Loudonville, NY 12211

Hon. Brenda K. Sannes, Chief United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Benji D. Reed commenced this action asserting claims under 42 U.S.C. § 1983 arising out of his incarceration at the Lewis County Jail in Lowville, New York. (Dkt. No. 1). On November 21, 2023, Defendants filed a motion for summary judgment under Fed. R. Civ. P. 56(a) seeking to dismiss the complaint. (Dkt. No. 19.) After receiving multiple extensions of time to submit a response to the motion, Plaintiff failed to file a response. (Dkt. No. 22, 29, 31). This matter was assigned to United States Magistrate Judge Miroslav Lovric who, on July 25,

2024, issued a Report-Recommendation and Order recommending that Defendants' motion for summary judgment be granted, and that Plaintiff's complaint be dismissed in its entirety. (Dkt. No. 33). Magistrate Judge Lovric advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report and that the failure to object to the report within fourteen days would preclude appellate review. (Dkt. No. 33, at 19). No objections were filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation, (Dkt. No. 33), is **ADOPTED** in its entirety; and it is further


ORDERED that Defendants' motion for summary judgment (Dkt. No. 19) is **GRANTED**; and it is further

ORDERED that Plaintiff's Complaint (Dkt. No. 1) is dismissed in its entirety; and it is further

ORDERED that the Clerk of the Court shall enter Judgment and close this case; and it is further

ORDERED that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

Dated: August 13, 2024


Brenda K. Sannes
Chief U.S. District Judge